

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

WASHINGTON WATER SERVICE  
CO.,

Respondent.

DOCKET UW-210560

PETITION FOR ADJUDICATION  
OF PUBLIC COUNSEL

**I. PETITION FOR ADJUDICATION**

1. Pursuant to WAC 480-07-305(3)(b), the Public Counsel Unit of the Washington Attorney General’s Office (“Public Counsel”) hereby respectfully petitions the Washington Utilities and Transportation Commission (“Commission”) for initiation of an adjudicatory proceeding to review the General Rate Case (“GRC” or “Request”) filed by Washington Water Service Co. (“Washington Water” or “Company”) on July 15, 2021.

2. The review of the GRC in this docket is an active case and controversy with respect to a matter within the Commission’s jurisdiction, which involves interests of new residential and non-residential customers of Washington Water after the sale approved by the Commission in Docket UW-200091. Public Counsel believes and represents, as set forth more fully in the memorandum below, that the Request raises material issues of fact and law which require adjudication.

## II. INTRODUCTION

3. In this GRC, the Company asks the Commission to approve a three-year rate plan that would impose a significant rate increase of approximately \$4–5 monthly for each year only on newly acquired customers and a rate decrease for its legacy customers in the first year. This Request follows the sale of the Rainier View Water Company, Inc. (“Rainier View”) to Washington Water, which the Commission approved in Docket UW-200091, and which added 18,500 new customers to the Company’s existing 18,000 customers.
4. Rates must be fair, just, reasonable and sufficient, and the significant successive increases in each of the three years proposed in the Request must be supported by evidence in the record. The Request, if approved, would impose an extremely large rate increase over a short period of time. The Commission’s decision on the matter would benefit from a full and fair examination of issues in this proceeding that would not be possible given the time available in the current informal open meeting process assigned to the case, and with only the Company providing evidence in the docket.
5. The sale approved in Docket UW-200091 made Washington Water a much larger private water company in Washington, affecting the rates of a large number of Washington residents. The current filing provides only seven months of data to support the requested three-year rate increase.<sup>1</sup> The Company states that the rapid rate increases are necessary to cover expenses and investments over the seven-month period that impacted each entity separately, and that usage on the old Rainier View systems is higher on average than Washington Water customers due to

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<sup>1</sup> See Initial Filing, Letter from Washington Water at 2 (July 15, 2021).

lower rates that are “less conservation oriented.”<sup>2</sup> At the same time, Washington Water argues that economy of scale benefits will result with regard to billing, collecting and insurance.<sup>3</sup>

6. Given the large increase and large number of customers impacted, Public Counsel believes it would be in the public interest to further examine its basis in a formal adjudication proceeding for several important reasons. First, the Request in this GRC is material and requires review and approval by the Commission. The Company has not asked that its GRC request be approved outside of adjudication. In addition, the Company has a large number of customers that more than doubled to roughly 36,500 after the approved sale in Docket UW-200091. The proposed rate increases of well over 10 percent for each successive year are significant. Therefore, the Request is more complicated and the Commission would benefit from a record that is developed through adjudication.

7. Second, the customers affected by the proposed three-year successive rate increase will be unduly prejudiced if this GRC is not set for adjudication. Without the right to conduct discovery, present evidence, and conduct cross-examination, Public Counsel cannot effectively participate in the review of this material request to increase rates and ensure that residential customers’ interests are protected. The adjudicative process need not be unduly burdensome, but it does afford parties certain rights and obligations that are not present through the open meeting process. Key examples include the ability to conduct enforceable discovery and the requirement to present evidence under oath. Ultimately, an adjudication will lead to a better record for decision and a fairer process for all parties.

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<sup>2</sup> *Id.* at 2–3.

<sup>3</sup> *In re: the Application of Rainier View Water Co. for the Sale and Transfer of Assets to Washington Water Serv. Co.*, Docket UW-200091, Order 01 Granting Application for Sale and Transfer of Assets; Adopting Tariff ¶ 3 (Mar. 26, 2020) (hereinafter “Docket UW-200091, Order 01”).

### III. BACKGROUND

8. Washington Water’s Request proposes to increase rates on new customers that it acquired in its purchase of Rainier View, which the Commission approved in March of 2020 in Order 01 in Docket UW-200091.<sup>4</sup> In that Order, the Commission ordered the Company to blend rates and “bring rates to parity in multiple steps” to “avoid rate shock to the customers that were formerly served by Rainier View Water,” and that,

due to the large rate disparity between the Companies’ customers, Washington Water Service should keep all customer cost records, expenses, and revenues separate for Rainier View and Washington Water Service, and that such separate record keeping should continue until Washington Water Service files its next general rate case, which will include a review of rates for parity adjustments.<sup>5</sup>

The Company refers to systems of the acquired Rainier View as its “East Pierce” systems, which includes two water systems in Kitsap County and 26 systems in Pierce County.<sup>6</sup> The legacy Washington Water customers are on 197 water systems across eight counties.<sup>7</sup> To demonstrate the significant difference in the current rates between the two customer groups, the Company states that comparable customers on the legacy Washington Water system and the new East Pierce systems would pay \$51.65 and \$22.98, respectively.<sup>8</sup>

9. The Company’s July 15, 2021, Request proposes to increase rates for the old Rainier View (East Pierce) residential customers successively over three consecutive years. The average monthly rate increases for the new East Pierce customers would be \$4.66 in the first year, \$4.60 in the second year, and \$4.64 in the third year.<sup>9</sup> These increases would implement successive

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<sup>4</sup> See Docket UW-200091, Order 01.

<sup>5</sup> *Id.* ¶ 6.

<sup>6</sup> See Initial Filing, Letter from Washington Water at 1 (July 15, 2021).

<sup>7</sup> See *Id.*

<sup>8</sup> See *Id.* at 2.

<sup>9</sup> See Initial Filing, Letter from Washington Water at 2 (July 15, 2021).

increases of 16.3 percent, 14.6 percent, and 13.2 percent for each year over the previous year for the East Pierce customers.<sup>10</sup> At the same time, the proposal would decrease rates for the old Washington Water customers in the first year and implement rate design changes to align the new customers with the legacy Washington Water systems.<sup>11</sup>

10. In Docket UW-200091, the Company argued that it would “be able to bring economies of scale benefits to the Company in certain areas, such as billing, collecting, and insurance,” and that it would “retain current employees who perform operations and billing, and its staff is familiar with [Rainier View’s] operations.”<sup>12</sup> In this GRC, the Company states that the proposed increases in the three-year rate plan are necessary for “expense and investment levels impacting each entity separately.” Company alleges that “[m]ost of the expense adjustments are driven by the annualization of East Pierce expenses incurred during the seven months under Washington Water’s operation,” and that “Washington Water receives services from its parent company California Water Service Group which includes management, financial, regulatory and human resource services.”<sup>13</sup> It states further that “allocation of costs to both entities follows Staff’s recommendations made in the last Washington Water rate case,” and that “revenues and expenses associated with the Company’s non-regulated operations have been removed from the requested cost of service.”<sup>14</sup> The Company alleges that the lower rates in East Pierce reflect an approach that is less conservation oriented, and that usage is higher on average than that of

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<sup>10</sup> *See Id.* at 3.

<sup>11</sup> *See Id.* at 2.

<sup>12</sup> Docket UW-200091, Order 01 ¶ 3.

<sup>13</sup> *See* Initial Filing, Letter from Washington Water at 2 (July 15, 2021).

<sup>14</sup> *See Id.*

Washington Water legacy customers.<sup>15</sup> It alleges that usage will decline in East Pierce under the proposed rate plan.<sup>16</sup>

#### IV. ARGUMENT

**A. This GRC Is Material Because of the Large Size of the Proposed Rate Increases over Three Consecutive Years and the Large Number of Customers Who Would Be Affected**

12. The three-year successive rate increases this GRC requests for the 18,500 new East Pierce customers are material and require review and approval by the Commission. Only the Company's customers acquired through the approved sale in Docket UW-200091 will experience the rate increases it proposes. The proposed rate increases for each of the three years would be well over 10 percent for each successive year. Therefore, because the increases are very large and would take place repeatedly over consecutive years without further review, it is important that this Request be thoroughly evaluated.

13. The Company's rates must be fair, just, reasonable, and sufficient. In addition, the significant successive increases in each of the three years the Request proposes must be supported by evidence in the record. The Request, if approved, would impose an extremely large rate increase over an unnecessarily short period of time. The Commission's decision on the matter would benefit from a more detailed examination of issues in this proceeding than could occur in the informal open meeting process, in which only the Company would provide evidence in the record.

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<sup>15</sup> See *Id.* at 3.

<sup>16</sup> See *Id.*

14. Public Counsel requests adjudicatory process for this GRC so that it may have sufficient time to examine the seven months of data the Company alleges can justify three years' worth of successive double-digit rate increases.<sup>17</sup> Public Counsel would like to look more closely at the expenses and investments over the seven-month period that the Company references in its proposal to change rates, rate spread, and rate design for its new customers.<sup>18</sup>

15. The three-year rate increase at issue is large, as is the number of customers affected by this Request. As a result, Public Counsel believes it would be in the public interest to further examine the basis for the large increase requested in a formal adjudication proceeding.

**B. Adjudication for Cases of this Type is Appropriate and Contemplated in Commission Statutes, Public Counsel will be Unduly Prejudiced Without an Adjudicative Process**

16. As a general matter, the Commission “may commence an adjudicative proceeding at any time with respect to any matter within its jurisdiction and within the scope of its authority.”<sup>19</sup> The Commission’s broad authority under WAC 480-07-305 allows it to look at specific facts and impacts of a general rate case such as this one and determine that a more detailed examination through adjudicatory process is warranted. Previously, the Commission has set major general rate cases for hearing in an adjudicative process. The statutes applying to utilities in Chapter 80.28 RCW expressly contemplate that this is appropriate.

17. The material rate changes proposed in this case raise significant factual and legal issues as described above. Public Counsel cannot sufficiently review and respond to these issues without the ability to conduct discovery, present evidence, present legal argument, and cross-

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<sup>17</sup> See *Id.* at 2.

<sup>18</sup> See *Id.* at 2–3.

<sup>19</sup> WAC 480-07-305.

examine witnesses. Public Counsel is also not able to fairly develop settlement positions based on the current record.

18. Public Counsel has not conducted discovery. The discovery rules in WAC 480-07-400 through -425 are not currently in effect. Consideration of and ruling on the proposed rate changes at an open meeting, based solely on Washington Water's evidentiary filing would represent an unfair and unbalanced process. Such an approach does not afford Public Counsel, or other potential intervenors, available procedural rights and protections and their ability to protect and represent their interests will be prejudiced.

19. At the same time, Public Counsel is not aware of any prejudice to Washington Water that would result from adjudication. The adjudicative process allows the creation of a superior record that benefits the Commission in providing a basis for deciding the case, whether as to disputed or settled issues.

20. Public Counsel's request is appropriate under WAC 480-07-305. The Commission has jurisdiction over the case and the matter is ripe for determination, having been presented for decision. Public Counsel has standing as the statutory representatives of customers of Washington Water. The GRC request is not being considered in another proceeding. The issues cannot be better addressed informally or in a different proceeding for the reasons discussed above.

21. Public Counsel also believes that an adjudication will allow a more detailed record for the Commission to consider the Company's rate request. Adjudication is also appropriate to allow parties to intervene and seek discovery from the Company. While parties other than Commission Staff may participate in informal proceedings, the ability to fully engage can be limited without the procedures afforded in an adjudication. Commission Staff could also benefit from obtaining

additional information with which to make a recommendation to the Commission.<sup>4</sup> Formal discovery, testimony, and Commission decision after hearing will allow the Commission to decide the prudence issues on a full and robust record.

## V. CONCLUSION

22. For the foregoing reasons, Public Counsel respectfully requests that this matter be set for adjudication pursuant to WAC 480-07-305(3)(b).

Dated this 3rd day of September, 2021.

ROBERT W. FERGUSON  
Attorney General

/s/ *Ann Paisner*

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